

ORIGINAL

INTERVENTION

ACC Docket W-02077A-12-0493

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

2013 FEB 13 P 1:41

RECEIVED

DATE: February 1, 2013

TO: Arizona Corporation Commission - Docket Division

CC: Arizona Corporation Commission - Utilities Division
Attn: Carmen Madrid

Hopeville Water Company, Inc DBA Allenville Water Co

Office of Max Wilson - Maricopa County Supervisor, District 4

Maricopa County Attorney – Bill Montgomery, Maricopa County, AZ

Mayor Jackie A. Meck, Buckeye, AZ

Town Manager Stephen S. Cleveland, Buckeye, AZ

FROM: Concerned Citizens Group of Hopeville, AZ
(reference EXHIBIT E - "Call for Action" signed by concerned Hopeville residents, property owners and water customers)

SUBJ: **Motion to Intervene & Request for Public Hearing**
Memo of Opinion for the Record

IN MATTERS CONCERNING: ACC Docket W-02077A-12-0493

A) In The Matter of the Application of Hopeville Water Company, Inc. DBA Allenville Water Company, for Arizona Corporation commission approval to Sell Its Assets and for Cancellation of its Assets and for Cancellation of Its Certificate of Convenience and Necessity:

B) Real Estate Purchase Option Agreement between the Town of Buckeye and the Hopeville Community for Progress, Inc. (HCFPI) Granting the Town the Option to Purchase Approximately 15 Acres of Vacant Real Property Owned by Hopeville Community for Progress, Inc.

The Concerned Citizens Group of Hopeville, AZ would like to thank the Town of Buckeye for their consideration towards purchasing the Hopeville Water Company, Inc.

For the record, *Hopeville Community for Progress* (HCFP) was established as a non-profit community in the early 1980's as part of a state humanitarian relocation project for the predominately African-American community of Allenville, AZ - originally located south of Buckeye, AZ.

This included the establishment of the Hopeville Water Company, Inc., also a non-profit entity within the jurisdiction of HCFP, who hold the exclusive water rights for the community. This community has survived in part, due to its' non-profit status.

Currently, the demographics of the community are predominately residents of minority, senior and fixed income status.

Arizona Corporation Commission
DOCKETED

FEB 13 2013

DOCKETED BY

With that said, our aim is to seek ways to improve our community. The community has not had the funding resources to improve its' neighborhood environment, recreational park and the community center facility. These are among the key concerns of the Hopeville Community. These amenities have become unusable, unsafe and unsightly.

The primary focus of concern starts with accountability of leadership and management of the community. Mr. Abraham Harris III has held the position of *Hopeville Community for Progress* board president and has long been considered by the concerned citizens as "self-appointed." He does not speak on behalf of the majority of Hopeville residents and property owners. He "assumed" the position his father previously held without formal approval of the community at large.

The Concerned Citizens Group of Hopeville, AZ is outraged that the residents of Hopeville have not been adequately notified of the pending sale of their water company, nor did they receive official prior notification (until a notice was sent in their December 2012 water bill) that the water company was already positioned by Mr. Harris III to be sold via an application with the ACC. This "after the fact" clandestine move came as a shock to residents of the community. There were no public meetings to involve the residents with the water company sale.

The By-Laws of the non-profit community have not been properly followed for the well-being of the community for years. This includes no majority resident or property owner involvement relative to Board elections and community management. This is due to tactics used by Mr. Harris III and long-term board members under his direction. Following are recent examples of these tactics:

1. The water customers received notice on their December 2012 water bills of the pending sale.
Tactic: The Hopeville Water Company phone number listed for contact does not connect and the residents are not able to contact Mr. Harris III via that number – **EXHIBIT C**.
This is not the first time residents have experienced this maneuver.
2. On numerous occasions, Mr. Harris III discouraged residents/water customers from going downtown or calling the Arizona Corporation Commission (ACC) office, or any other office to ask questions. He inferred that by doing so, residents could expect problems for the community – **EXHIBIT D**.
Tactic: intimidation/bullying
3. Copies of various documents were requested by residents and property owners. The Water Company Board (same four board members currently sitting) never responded or provided any access. In many instances, verbal confrontations erupted.
Tactic: Willful non-disclosure of information to residents.
4. Residents held meetings within the community on several occasions to discuss issues of major concern and to seek information about the future of Hopeville. HCFP board members were solicited and encouraged to participate. None ever attended. Their reasoning; a "conflict of interest."
Tactic: Avoidance and weak excuses.

The Hopeville community is burdened with many issues which have not been addressed for many years since Mr. Harris III assumed the position of Board president. Now, this community is faced with this new matter of urgency, the sale of their non-profit water company without any consideration for or input from a majority of the community.

The news of the possible sale of the water company... essentially the community's lifeline and greatest asset..... to the Town of Buckeye has left the residents of this community feeling betrayed. We, the

concerned citizens, now ask – how will the sale benefit the community? The residents and property owners have not been consulted or advised of how the sale will benefit the entire community.

The concerned residents and property owners demand the selection and election of a new Board of Directors to oversee the finalization process of selling the Hopeville Water Company, Inc. to the Town of Buckeye. A new board would address the community needs and listen to the concerns of all Hopeville citizens. A new board would not seek remuneration but, would be individuals committed to serve the good of all the community.

There have been actions taken by Mr. Harris III and the HCFP Board that warrant investigation and resolution. For the record:

- 1) We have cause to believe Mr. Harris III was involved with deeding and selling multiple community owned land parcels to himself for personal gain and to outside corporate entities (e.g., Gimito Hopeville, LLC and Negative Nine, LLC) - **EXHIBIT A**
- 2) We have cause to believe that Mr. Harris III and the HCFP Board violated the founding Non-profit Articles of Incorporation by facilitating the pending sale of the Hopeville Water Company for personal gain – **EXHIBIT B**. In addition to Mr. Harris III, HCFP board members involved are Louis Early, Willie Wilson and Bob Smith.
- 3) We have cause to believe Mr. Harris III violated his fiduciary responsibilities as board president of HCFP and Hopeville Water Company.

Case in point: A discovery was made by the Concerned Citizens Group of Hopeville, AZ who were reviewing the County Assessors' status of community owned parcels that Mr. Harris III had been deeding properties from HCFP to himself. We believe these to be clandestine transactions, a willful disregard of HCFP by-laws and possibly illegal. The properties ultimately did lose non-profit status and subsequently incurred tax liens - (Mr. Harris III's liens).

These blatant violations of Mr. Harris III's fiduciary responsibilities placed the community properties in jeopardy of being sold off for back-taxes.

Case in point: Current Maricopa County Assessor affidavit records reveal five (5) parcel sales of Hopeville community owned property (504-29-081, 082, 084, 085 & 087). Of significance, two of these parcels encompass the resident's Community Center facility and the Recreational Park. This is an outrage, as the Assessor records reveal these sales totaled \$175,000 – cash. We want to know, WHERE IS THE \$175,000?

We demand full disclosure of the financial statements, records, and meeting minutes of the HCFP Board.

The concerned residents and property owners of this community seek from the ACC an official removal of Mr. Harris III as HCFP board president. As a community we feel and agree that the installation a new HCFP Board is critical. We seek a board that would address and listen to the concerns of all Hopeville residents and property owners.

The papers filed with the Arizona Corporation Commission, 12/17/2012, fail to identify how the \$771,000 would be used within the community. The following ideas are offered:

- First, establish a new community Board in its totality.
- Funds from the sale of the Hopeville Water Company, Inc. should be placed in an account that is specifically ear marked for use in reviving the Hopeville community. The best type of account to serve this purpose would need to be determined.
- As part of renewed sale negotiations, consideration could be given to request assistance from the Town of Buckeye regarding the redevelopment and revitalization of the Hopeville Community Park and Community Center.
- A professional assessment is necessary to determine requirements and work necessary to improve specific areas of the community, such as:
 1. Hopeville Park restoration: complete restoration of it watering system, landscape, shrubbery, and all other amenities related to the park.
 2. Installing sidewalks as an ongoing project.
 3. Restoration of the Hopeville Community Center (including consideration for construction of a new facility).
 4. Obtaining bids from various companies to do the work related to the park and community center.

We the Concerned Citizens Group of Hopeville, AZ (many who have already filed motions to intervene with the ACC), implore those involved with the sale of their water company, to ensure that due diligence, lawful and ethical proceedings are guaranteed during the course of this entire matter at hand.

This letter is in no way intended to reflect negatively upon the Town of Buckeye and its' Council. We thank you for your kind and professional consideration.

I hereby certify that a copy of this document and exhibits has been mailed to Hopeville Water Company, Inc. DBA Allenville Water Company, 1415 S. Palo Verde Road, Buckeye, AZ 85326 and P. O. Box 7704, Goodyear, AZ 85338.

Submitted on behalf of the Concerned Citizens Group of Hopeville, AZ
(reference **EXHIBIT E** "Call for Action" signed by concerned Hopeville residents, property owners and water customers)

Persons to contact representing the Group:

James Brown, Jr. (Hopeville property owner) - 623-399-7170

Alternate: Wilbur Brown - 623-810-6848

EXHIBIT A

Parcels that were non-profit community owned property, are now identified by the Maricopa County Assessor as being owned by Abraham Harris III and other corporations (LLC's), as follows:

1. **Parcel # 504-29-025-A** (May, 2009 - deeded (#090408153) to Abraham Harris III)
2. **Parcel #504-29-081** (February, 2011 - placed under GIMITO Hopeville, LLC. - transferred under a warranty deed (#11061122) - completed by Abraham Harris III)
3. **Parcel #504-29-082** (August , 2010 - was initially transferred through a warranty deed (#100661391) from HCFP to Michael K. Ben Horin and Jeri Ben-Horin, husband and wife, as undivided 1/3 interest; etc.. (File No. NCS-446197-PHX1 NM)
4. **Parcel #504-29-084** (January, 2011 - transferred through a warranty deed (#110000748) File No. NCS-467004-PHX1 NM - completed by Abraham Harris III to GIMITO Hopeville LLC.)
5. **Parcel #504-29-085** (November, 2009 – *initially* deeded (#091013667) to Abraham Harris III; then; on Dec. 14, 2011 Abraham Harris III signed an affidavit date of sale for this parcel and an additional parcel listed on the affidavit (#504-29-087) to Negative Nine, LLC (for \$70,000 – cash sale). **NOTE**; these parcels are where the resident's Community Center facility and Park are located.

EXHIBIT B

Excerpt from 11/2/85 Articles of Incorporation

Taken from the Articles of Incorporation filed 11/2/85 by [REDACTED]
[REDACTED] as the incorporators of the company as a non-profit. [REDACTED]
[REDACTED] is the Statutory Agent.

Article 5 (in part): No part of the net earning of the corporation shall inure to the benefit of or be distributable to its members, directors, officers, or other private persons, except that the corporations shall be authorized and empowered to pay reasonable compensations for services rendered and to make payments and distributions in furtherance of the purposes set for in Article IV..."

Article VI says, "In the event of the liquidation, dissolution or abandonment of this corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the corporation, dispose of all of its assets exclusively for the purposes of the corporation in such manner, or to such organizations organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501 (c) (3) or the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Laws) as the Board of Directors shall determine. Any such assets not disposed of shall be disposed of by the Superior Court of the country in which the principal office of the corporation is then located, exclusively for such purpose or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purpose."

Rec'd 1/3/13 in
Buckeye 10:00x

EXHIBIT C

**PUBLIC NOTICE OF AN APPLICATION FOR THE SALE OF ASSETS AND THE
CANCELLATION OF THE CERTIFICATE OF CONVENIENCE AND NECESSITY**

DOCKET NO. W-02077A-12-0493

HOPEVILLE WATER COMPANY, INC.
DBA ALLENVILLE WATER COMPANY
1415 SOUTH PALO VERDE ROAD
BUCKEYE, AZ 85326

On December 17, 2012, Hopeville Water Company, Inc. dba Allenville Water Company has filed with the Arizona Corporation Commission an application for authority to sell its assets and cancel its Certificate of Convenience and Necessity to provide water service. Hopeville Water Company, Inc. dba Allenville Water Company's system has been purchased by the Town of Buckeye. If the application is approved, the Town of Buckeye would be the exclusive provider of water service to your area and will establish its own rates and charges. However, the Town of Buckeye has agreed to continue to bill existing customers, at Hopeville Water Company, Inc. dba Allenville Water Company's current rates and charges for a period of three years.

If you have any claims against Hopeville Water Company, Inc. dba Hopeville Water Company, including claims for refunds of security deposits, service line and meter installations or main extension agreements and you have not already been contacted by the Company, you must present your claim to Hopeville Water Company, Inc. dba Hopeville Water Company on or before January 31, 2013. Direct your claim(s) to:

Mr. Abraham Harris III
Hopeville Water Company, Inc.
DBA Allenville Water Company
1415 South Palo Verde Road
Buckeye, AZ 85326
(623) 817-8492 *discussed*

Approval of this application may be given without a hearing. If you have any questions or concerns about this application, have any objections to its approval or would like to request information on intervention in the proceeding, you may contact the Consumer Services Section of the Arizona Corporation Commission at 1200 West Washington Street, Phoenix, Arizona 85007 or call 602-542-4251 or toll free 1-800-222-7000.

HOPEVILLE WATER COMPANY
P.O. BOX 7704
GOODPASTER, AZ 85338

BUCKEYE, AZ 85326

85326008542

PHOENIX AZ 852
29 DEC 2012 PM 4 L



Mr. [REDACTED]

We've been trying to contact Mr. [REDACTED] via phone/e-mail; he made one effort to contact my brother via phone and said he'd call him back for a meeting. That never transpired and he never called back.

However, here is an e-mail communication string and I hope you can spare 10-15 minutes to read. It will give you an idea of the type of person we have been trying to deal with. This last e-mail is still not answering the request to meet with the group of concerned residents for the community. The water company is a separate issue, that he wants to make the main issue.

E-mail
#5

Please have a read and actually the October 20th e-mail sent to Mr. [REDACTED] appears it angered him and then we received his October 21st response with an implied threat of his position with the Maricopa County BOA District 5 Representative. Well, I'm not sure what his service on the Board of Adjustments for District 5 has to do with any of the issues we are trying to resolve in the community of Hopeville.

Thank you.

From: [REDACTED]
Sent: Monday, October 24, 2011 12:36 PM
To: [REDACTED]
Subject: FW: Concerned Group of Community Residents
Importance: High
FYI

E-mail
#4

From: [REDACTED]
Sent: Friday, October 21, 2011 10:06 PM
To: Brown, Jim
Subject: RE: Concerned Group of Community Residents
Importance: High

To Jim Brown and whom ever you deem necessary to share this with:

Initially I contacted you due to issues that we have discovered amongst the people of Hopeville. This will act as my final response to you. You may forward this email to whom you deem necessary.

The members of this board have grown tired and very weary. The constant badgering and lies has led to following decision: I do wish that I was able to share intimate details with you however, being called a liar prohibits that. Even as recently as 2 days ago I tried to reach you by phone in order to protect those that you are related to that live in Hopeville. That time has now passed. Upon my return to Arizona, I will be sitting down once again with Hopeville's legal counsel to make arrangements for prosecutions of threats made upon members of this board and myself personally. Also, as far as Hopeville Water Company is concerned the time is coming that you and your associates will understand that **ABSOLUTELY NO ONE** from whom ever will be taking on the responsibility of this utility will be meeting with you or any one else. APS does not do it, Global Water does not do, and neither does Southwest Gas. It's just not going to happen. I understand that it has been stated that this entire charade has been about the community, however, those that choose to believe that fine it's not it is about water. Water that they don't own, nor have they went through all the problems that the Hopeville Board has had to go through to maintain water for the customers. No longer will myself or any other board member sacrifice time, energy or most importantly money to maintain water services for it's customers. That day is done, these men feel like they have done all that they can do.

On a personal note I do understand where you are coming from Jim. I tried my best to express to you

through email since that is the best way to reach you that this was not a community issue this is a strategic fight against people from the outside that are trying to take over Hopeville and it's water and annex it. Because of all the calls and complaints made from Hopeville to county, state and federal officials in which they contacted me and asked me what I would like to do. I have now come to a decision. I am finished. Please let your group know. Whomever may control Hopeville and it's utility from now on you may contact them. They will be contacting customers via US mail, whether it be Buckeye, Global Water or Arizona Water I am not sure. One thing I am sure of is it won't be me or any of the board members. The protection of Hopeville that was originated by my father, [REDACTED] is now over. A copy of this email is forwarded to all the agencies where I had friends in the local and federal government helping me to aide in Hopeville's survival has been sent.

Thank you,

[REDACTED]
Maricopa County BOA District 5 Representative

From: JBrown [REDACTED]

To: [REDACTED]

Date: Thu, 20 Oct 2011 16:14:51 -0700

Subject: RE: Concerned Group of Community Residents

Email
#3

Hopeville Board (Messer's Harris, Earley, Smith, and Wilson):
From Concerned Group of Hopeville Community

Mr. [REDACTED] response is not clear. If Mr. [REDACTED] has a specific "statute" in mind, he needs to give the specific # - there are hundreds of Arizona Statutes - which one is he referring to? If HCFP is defunct, the residents need to know that? If Hopeville Water Company is being turned over to a state agency, the residents need to know that so they know exactly who they are dealing with.

The residents of Hopeville can't have a meeting with themselves; they need the Hopeville Board of Directors; the supposedly governing body of the community. We aren't talking "water" we're talking "community" concerns; just in case he is confused on what the concerned group of residents is requesting. I attended a meeting some years ago and Mr. [REDACTED] requested at that time that the residents come to him rather than calling government agencies downtown; they are now coming and requesting a meeting to "discuss concerns". It appears that he/Board are not willing to meet with the concerned residents who have approached the Board properly, respectfully and have even asked another Pastor outside the community, but familiar to him to assist with facilitating a peaceful orderly discussion. It seems the Board (Mr. Harris, Mr. Wilson, Mr. Earley) is not being responsive or respectful of the residents request which sends a message of we really don't care or want to hear what you have to say and are not interested in working with you on getting resolutions or providing you with answers to your questions. We know you live in this community, but we really don't care what they have to say.

The HFCP Board needs to come clean and be open with the people/residents so the residents can feel comfortable coming to them and won't feel they have to go further and get lawyers, news media, ACC involved on such issues that can be resolved at the "community level."

The residents can meet with Hopeville Board and have every right to and the Hopeville Board can call a community meeting at anytime given they notify the residents in the required time. I believe that time is 10 days; I do not have a copy of the Bylaws in front of me. Again, other than the required annual meeting that the Board is supposed to have (per Bylaws every November); the HCFP Board can call a

community meeting of residents/property owners/renters in the community at any time with the 10 day notice (whether it be mail, letters posted to the doors, flyers sent & distributed throughout the community) using any of these methods; just so every reasonable effort is made to notify all residents (that is a small task and does not require a lot of effort). Nothing in the Bylaws for community meetings indicate a 90 day period.

I believe Mr. [REDACTED] understands that this is not a state meeting or problem; it's "community" meeting being requested and Hopeville Board is the body the community must and wants to have discussions with to express their concerns. Hopeville is not governed by some "state" Board (if that's what Mr. [REDACTED] meant). Hopeville is under Maricopa County, being operated as HCFP under non-profit rules. AND if Hopeville is now being governed by some state board that should have been communicated to the residents through a community meeting or letter of notice ASAP.

This is a sad day when the residents/property owners finally say they want to take an active role in their community, and it appears the HCFP Board does not want to communicate or meet with the residents. I don't care how late it may seem in the scheme of things; it's never too late to start a fresh and new relationship and finally do what is right. If Mr. [REDACTED] wants to put it in the spiritual context, forgiveness is knocking at the door and waiting for an answer. Whether it is the residents indicating they have not been participants previously and they are sorry or whether the Board is saying they have not been good communicators to the community concerns and they are sorry – it's all in the past. At this time, Mr. [REDACTED] has a cooperative concerned group that is willing to work with him and even has other Pastors involved to help facilitate/guide the group to stay focused on doing what's right. What better help could the leaders/Board ask for?

Also the statement that the letter could not be responded to because the "sender is not being served from this community" is irrelevant. Anyone can send a letter on behalf of anyone from anywhere in the United States; the sender was assisting with an administrative duty for the concerned group. It would be the same if one of the assistants he has on the Board or the church does not live in the community or own property in the community, but Mr. [REDACTED] asked the assistant to send out letters. Now the Assistant lives in Phoenix and sends letters to the HCFP Board from Phoenix on his behalf. Is Mr. [REDACTED] saying that none of the Board will answer because it was sent from Phoenix? I don't want to insult Mr. [REDACTED] intelligence and ask that he certainly not insult the concerned group's intelligence by making such a statement.

The group's request is clear that they're requesting and want a meeting with the HCFP Board for discussion on community concerns. There is no state or county law/non-profit law prohibiting this with at least three of the Board of Directors being present. **Please let us (the concerned group) know what date the HCFP Board can meet with the group.**

On behalf of the Concerned Group of Hopeville Community

From: [REDACTED]
Sent: Thursday, October 20, 2011 9:41 AM ✕
To: Brown, Jim
Subject: RE: Concerned Group of Community Residents

Email
#2

The en on that Board would have to call the meeting, and I do have refer you to revised Status covering Rules of Law concerning State Boards. This is all academic anyway that Board will be all resident to a

meeting in approx. 90 days. At that time they will have all information, and with what agencies will be handling future issues. Also the letter that was sent out to them, could not be address. Due to the fact the sender is not being served from this community.

From: JBrown [REDACTED]

To: [REDACTED]

CC: [REDACTED]

Date: Wed, 19 Oct 2011 12:11:05 -0700

Subject: Re: Concerned Group of Community Residents

Email
#1

Board members concerned residents of Hopeville would like to request a meeting with the perspective Board members as known to the community of Hopeville to discuss their concerns and the future of said community. A letter requesting this meeting was previously sent out to each member noted on filed paper work without response. If you're not the individuals that the concerned residents need to discuss their concerns with, please direct us to those individuals that represent Hopeville.

Purpose: To discuss legitimate concerns on the future of Hopeville, community repairs ect.

Abraham Harris III
[REDACTED]

Louis K. Early
[REDACTED]

Willie Wilson
[REDACTED]

Bobby Smith
[REDACTED]

RE: Hopeville Community Residents/Property Owners request for a community meeting prior to the annual November HCFP Board meeting, per the HCFP By-Laws

Thank you,
Jim

EXHIBIT E

Name

Address or Contact Info

Signatures

Ellen Berry 203 Jackson Bklyn 85326 602-571-1702
 Arnold Nubbert 15735 W. Verde Ln. Moodyean 85395 623-748-9495
 Izda Brown P.O. Box 1142 Buckeye, AZ 85326 ~~Isela Brown~~
 Oliver Piper P.O. Box 1852 Buckeye, AZ 85326 623-330-3949
 Jim Brown 2995 W. Pointe Ridge Rd. Buckeye, AZ 85396

623-388-6912

Wilbur Brown 4400 N. 99th Ave Phoenix AZ

Robert Land 22807 W. Ashleigh Marie Dr Buckeye, AZ 85326

Carolyn Land 22807 W. Ashleigh Marie Dr Buckeye, AZ 85326

Jelly Brown 9519 W. Miami Tolleson AZ 85353

Federico Orozco 28913 W. Cocopah Buckeye AZ

Cristina Orozco

28917 W. Cocopah Buckeye AZ

Sergio Menoz

28926 W. Cocopah St Buckeye AZ

Jennifer Van Acker

28907 W Pima St. Buckeye AZ 85326

EXHIBIT E -- CALL FOR ACTION

By our signature, we the residents, property owners and water customers of Hopeville, AZ are calling upon the officials, to whom the Open Letter is addressed, to take action within their authority and jurisdiction, to the matters of urgent concern described.

EXHIBIT E

Name

Address or Contact Info

Signatures

<i>[Signature]</i>	Oliver Caldwell	28925 W Pima
<i>[Signature]</i>	Brice Caldwell	28925 W Pima
Cynthia Bell	13025 28th Ave #52	48257-701 Cynthia Bell
Ramy Bell	12025 28th Ave #52	Ramy Bell

EXHIBIT E -- CALL FOR ACTION

By our signature, we the residents, property owners and water customers of Hopeville, AZ are calling upon the officials, to whom the Open Letter is addressed, to take action within their authority and jurisdiction, to the matters of urgent concern described.